

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
CASE NO. 24-61320-CIV-SMITH/HUNT

BARRY GRANOFF,

Plaintiff,

v.

DONNA I. MERELLI,

Defendant.

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REPORT AND RECOMMENDATION

This matter came before the Court on the Plaintiff's Motion to Approve Settlement. ECF No. 37. The Honorable Rodney Smith referred this case to the undersigned for a Fairness Hearing. ECF No. 38. See *also* 28 U.S.C. § 636(b); S.D. Fla. Mag. R. 1. The undersigned, having reviewed the file, considered the Motion, reviewed the final Settlement Agreement, considered statements of counsel and Defendant at a fairness hearing conducted on April 15, 2025, and being otherwise fully advised, hereby RECOMMENDS the motion be GRANTED for the following reasons.

This case includes claims under the Fair Labor Standards Act ("FLSA") for alleged violations of the statutory wage and overtime provisions. See 29 U.S.C. § 201, *et seq.* ECF No. 1. Before this Court can dismiss this case and approve a settlement of the FLSA claims, the undersigned must scrutinize the settlement and determine that it is a "fair and reasonable resolution of a bona fide dispute over FLSA provisions." *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1355 (11th Cir. 1982). In doing so, courts consider various factors, including: (1) the possible existence of collusion behind the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the

proceedings and the amount of discovery completed; (4) the probability of the plaintiff's success on the merits; (5) the range of possible recovery; and (6) the opinions of counsel. *See Leverso v. S. Tr. Bank of Ala. Nat'l Ass'n*, 18 F.3d 1527, 1531 n.6 (11th Cir. 1994); *see also McHone v. Donald P. Hoekstra Plumbing, Inc.*, No. 10-CV-60322, 2010 WL 4625999, at *1 (S.D. Fla. Nov. 4, 2010); *Dees v. Hydradry, Inc.*, 706 F. Supp. 2d 1227, 1241 (M.D. Fla. 2010). In the end, if the settlement reflects a reasonable compromise over FLSA issues that are actually in dispute, this Court may approve the settlement "to promote the policy of encouraging settlement in litigation." *Lynn's Food Stores*, 679 F.2d at 1354.

In scrutinizing the series of emails memorializing the Parties' Settlement Agreement, ECF No. 37-1, this Court considered the above factors, the overall strengths and weaknesses of the Parties' respective positions, and the Parties' desire to resolve this case sooner rather than later to avoid the costs and uncertainty of litigation. The undersigned also considered that Plaintiff's claims were disputed as to liability and amount. Lastly, the Parties explained to this Court the portion of the settlement amount to be paid to Plaintiff and the amount designated for attorney's fees and costs. Accordingly, this Court finds that the Settlement Agreement is a fair and reasonable resolution of a bona fide FLSA dispute.

In addition, this Court reviewed "the reasonableness of [Plaintiff's] counsel's legal fees to assure both that counsel is compensated adequately and that no conflict of interest taints the amount the wronged employee recovers under a settlement agreement." *Silva v. Miller*, 307 F. App'x 349, 351 (11th Cir. 2009). Having done so, this Court finds that

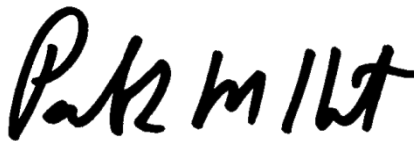
the amount of the settlement proceeds attributable to Plaintiff's counsel's legal fees is reasonable.

Accordingly, it is hereby **RECOMMENDED** as follows:

Plaintiff's Motion to Approve Settlement. ECF No. 37, should be **GRANTED**, the Parties' Settlement Agreement **APPROVED**, and the case **DISMISSED WITH PREJUDICE**.

Within three (3) days after being served with a copy of this Report and Recommendation, any party may serve and file written objections to any of the above findings and recommendations as provided by the Local Rules for this district. 28 U.S.C. § 636(b)(1); S.D. Fla. Mag. R. 4(b). The parties are hereby notified that a failure to timely object waives the right to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions contained in this Report and Recommendation. 11th Cir. R. 3-1 (2018); see *Thomas v. Arn*, 474 U.S. 140 (1985).

DONE AND ORDERED in Chambers, at Fort Lauderdale, Florida, on the 16th day of April 2025.



PATRICK M. HUNT
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
The Honorable Rodney Smith

All Counsel of Record

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